



Election
Vorwerk
8/20/03

DOCKET NO: 10/026,740US0

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

HIDETOSHI YANO, ET AL.

: EXAMINER: LEE, SUSAN SHUK YIN

SERIAL NO: 10/026,743

:

FILED: DECEMBER 27, 2001

: GROUP ART UNIT: 2852

FOR: DEVICE FOR REMOVING IMAGE
DISFIGURING SUBSTANCES AND
IMAGE FORMING APPARATUS USING
THE SAME

:

RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Office Action dated July 15, 2003, Applicants elect, with traverse, Specie I, for further prosecution. Claims 1-12, 14-16, 19-31, 34-46 and 59-90 read on the elected specie.

REMARKS

The Office has required Election of Specie of:

- Specie I: Adsorbent support comprising an elastic body and a surface layer removably fitted on the elastic layer - Fig. 9;
- Specie II: Adsorbent support comprises a brush - Fig. 11; and
- Specie III: Adsorbent support comprises an endless belt passed over a plurality of support members - Fig. 12.

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Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Moreover, Applicants respectfully traverse on the grounds that the Office has not shown that a burden exists in searching the entire application. Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP §808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Election of Species. Withdrawal of the Requirement for Election of Species is respectfully requested.

Application No. 10/026,743
Reply to Office Action of July 15, 2003

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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Docket No.: 217740US0

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/026,743

Applicants: Hidetoshi YANO, et al.

Filing Date: December 27, 2001

For: DEVICE FOR REMOVING IMAGE DISFIGURING
SUBSTANCES AND IMAGE FORMING
APPARATUS USING THE SAME

Group Art Unit: 2852

Examiner: Susan Lee

SIR:

Attached hereto for filing are the following papers:

Response to Requirement for Election of Species

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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